

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1322

SPONSOR: Senator Cowin

SUBJECT: Constitutional initiatives; fiscal impact statement

DATE: April 17, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Rubinas</u>	<u>EE</u>	<u>Favorable</u>
2.	<u>Keating</u>	<u>Johansen</u>	<u>JU</u>	<u>Withdrawn</u>
3.	_____	_____	<u>FT</u>	<u>Favorable</u>
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	<u>RC</u>	_____
6.	_____	_____	_____	_____

## I. Summary:

Senate Bill 1322 requires the Revenue Estimating Conference to develop a short statement for inclusion on the ballot, identifying the fiscal impact of each amendment to the Florida Constitution proposed by initiative.

This bill substantially amends, repeals or re-enacts the following sections of the Florida Statutes: 15.21, 16.061, 100.371, 100.381, 101.161, 101.62, and 216.136.

## II. Present Situation:

In 2002, the Legislature enacted a law requiring a fiscal impact statement on the ballot for all constitutional amendments.<sup>1</sup> The Florida Supreme Court subsequently held that the law was unconstitutional because it was not necessary to ensure ballot integrity, the only basis on which legislation impacting the initiative process could be upheld.<sup>2</sup> The Court noted, however, that “[i]f Floridians wish to have a fiscal impact statement included with all initiatives to amend the constitution, then they can vote to adopt House Joint Resolution 571.”<sup>3</sup> At the 2002 general election, Floridians did precisely that --- effectively negating the Supreme Court’s decision. Senate Bill 1322, similar to the 2002 law, is the implementing bill mandated by the 2002 constitutional amendment.

<sup>1</sup> Chapter 2002-390, Laws of Florida.

<sup>2</sup> *Smith v. Coalition to Reduce Class Size*, 827 So.2d 959 (Fla. 2002).

<sup>3</sup> *Id.* at 964-65. House Joint Resolution 571 states that the legislature shall provide by general law for the provision of a fiscal impact statement to the public, *prior to the holding of an election*. Read literally, this language does not appear to unequivocally authorize the inclusion of a fiscal impact statement *on the ballot* as opposed to at some time preceding the election. However, the Court’s decision strongly suggested that the adoption of the amendment would serve to remove the 2002 statute’s constitutional infirmities.

In Florida, the professional staffs from the Legislature and Executive branches meet in a series of regularly scheduled Consensus Estimating Conferences to provide the forecasts needed to support the planning and budgeting process. These conferences are held at least three times a year, once in the fall to provide forecasts for the Governor's budget recommendations, once in the winter to provide final estimates for the Legislature's appropriation process, and once in the spring to adjust the winter forecast to reflect legislative changes. Impact conferences are held when estimates are needed to determine the impact of changes or proposed changes to current law or current administration or when a fiscal impact statement for a constitutional amendment proposed by citizen initiative is required.

Statutory authority for the consensus forecasts is provided in ss. 216.133 to 216.137, F.S., which specify the duties of each conference and designates the conference principals and participants. Revenue estimating is carried on as part of the overall consensus estimating process. Subsection (3) of s. 216.136, F.S., provides that the principals of the Revenue Estimating Conference are the Executive Office of the Governor, the coordinator of the Office of Economic and Demographic Research, and professional staff of the House and Senate who have forecasting expertise, or their designees. Historically, the representatives of the House and Senate have been the staff directors of the tax committees, and the policy coordinator overseeing tax issues has represented the Governor's Office.

### **III. Effect of Proposed Changes:**

Senate Bill 1322 requires the Revenue Estimating Conference to prepare a fiscal impact statement for inclusion on the ballot for any constitutional initiative measure that has received a threshold level of statewide and geographic support. Any initiative certified for the 2004 general election ballot on or before July 1, 2003 is exempt.

The Revenue Estimating Conference is required to reach consensus or majority concurrence on the fiscal impact statement. If the Conference does not agree on the statement, the following language shall appear on the ballot: "The fiscal impact of this measure, if any, cannot be reasonably determined at this time."

The fiscal impact statement must be clear, unambiguous, and no more than 50 words in length. The statement may set forth a range of potential impacts.

The Attorney General must petition the Florida Supreme Court for an advisory opinion on whether the fiscal impact statement meets all legal requirements. If the Court strikes down the fiscal impact statement, it must remand it to the Revenue Estimating Conference for re-drafting, *provided* the Court's opinion is rendered at least 75 days before the election. In order to facilitate the preparation and mailing of ballots, including advance overseas absentee ballots, if the Court has not approved a fiscal impact statement for a particular measure by the 55<sup>th</sup> day preceding the election the following statement is placed on the ballot, "Due to time constraints, the fiscal impact of this measure, if any, could not be included on the ballot."

The fiscal impact statement must be separately set forth on the ballot after the ballot summary as required by section 100.161(1), F.S.

The bill is effective on July 2, 2003.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference may incur additional costs to comply with the requirements in the bill, including research costs. The amount of these additional costs will vary depending on the number and complexity of constitutional amendments that require the preparation of a fiscal impact statement.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.